

residency training approved by the American Osteopathic Association.

(b) [Reserved]

## PART 75—CONSCIENTIOUS OBJECTORS

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AUTHORITY: Sec. 552 of title 5, United States Code.

SOURCE: 36 FR 22231, Nov. 23, 1971, unless otherwise noted.

### § 75.1 Purpose.

This part updates uniform Department of Defense procedures governing conscientious objectors and processing requests for discharge based on conscientious objection.

### § 75.2 Applicability and scope.

The provisions of this part apply to the military departments and govern the personnel of the Army, Navy, Air Force, and Marine Corps and all Reserve components thereof.

### § 75.3 Definitions.

(a) *Conscientious objection—General.* A firm, fixed and sincere objection to participation in war in any form or the bearing of arms, by reason of religious training and belief.

(1) *Class 1-O conscientious objector.* A member, who, by reason of conscientious objection, sincerely objects to participation of any kind in war in any form.

(2) *Class 1-A-O conscientious objector.* A member who, by reason of conscientious objection, sincerely objects to participation as a combatant in war in any form, but whose convictions are such as to permit military service in a noncombatant status.

Unless otherwise specified, the term “conscientious objector” includes both 1-O and 1-A-O conscientious objectors.

(b) *Religious training and belief.* Belief in an external power or being or deeply held moral or ethical belief, to which all else is subordinate or upon which all else is ultimately dependent, and which has the power or force to affect moral well-being. The external power or being need not be of an orthodox deity, but may be a sincere and meaningful belief which occupies in the life of its possessor a place parallel to that filled by the God of another, or, in the case of deeply held moral or ethical beliefs, a belief held with the strength and devotion of traditional religious conviction. The term “religious training and belief” may include solely moral or ethical beliefs even though the applicant himself may not characterize these beliefs as “religious” in the traditional sense, or may expressly characterize them as not religious. The term “religious training and belief” does not include a belief which rests solely upon considerations of policy, pragmatism, expediency, or political views.

(c) *Noncombatant service or noncombatant duties (1-A-O) (used interchangeably herein).* (1) Service in any unit of the Armed Forces which is unarmed at all times.

(2) Service in the medical department of any of the Armed Forces, wherever performed.

(3) Any other assignment the primary function of which does not require the use of arms in combat provided that such other assignment is acceptable to the individual concerned and does not require him to bear arms or to be trained in their use.

(4) Service aboard an armed ship or aircraft or in a combat zone shall not be considered to be combatant duty unless the individual concerned is personally and directly involved in the operation of weapons.

(d) *Noncombatant training.* Any training which is not concerned with the study, use or handling of arms or weapons.

### § 75.4 Policy.

(a) Administrative discharge prior to the completion of an obligated term of

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service is discretionary with the military service concerned, based on a judgment of the facts and circumstances in the case. However, insofar as may be consistent with the effectiveness and efficiency of the military services, a request for classification as a conscientious objector and relief from or restriction of military duties in consequence thereof will be approved to the extent practicable and equitable within the following limitations:

(1) Except as provided in paragraph (a)(2) of this section, no member of the Armed Forces who possessed conscientious objection beliefs before entering military service is eligible for classification as a conscientious objector if

(i) (a) Such beliefs satisfied the requirements for classification as a conscientious objector pursuant to section 6(j) of the Universal Military Training and Service Act, as amended (50 U.S.C. App. 456(j)) and other provisions of law, and (b) he failed to request classification as a conscientious objector by the Selective Service System; or

(ii) (a) He requested classification as a conscientious objector before entering military service, and (b) such request was denied on the merits by the Selective Service System, and (c) his request for classification as a conscientious objector is based upon essentially the same grounds, or supported by essentially the same evidence, as the request which was denied by the Selective Service System.

(2) Nothing contained in this part renders ineligible for classification as a conscientious objector a member of the Armed Forces who possessed conscientious objection beliefs before entering military service if (i) such beliefs crystallized after receipt of an induction notice; and (ii) he could not request classification as a conscientious objector by the Selective Service System because of Selective Service System regulations prohibiting the submission of such requests after receipt of induction notice.

(b) Because of the personal and subjective nature of conscientious objection, the existence, honesty, and sincerity of asserted conscientious objection beliefs cannot be routinely ascertained by applying inflexible ob-

jective standards and measurements on an "across-the-board" basis. Requests for discharge or assignment to non-combatant training or service based on conscientious objection will, therefore, be handled on an individual basis with final determination made at the headquarters of the military service concerned in accordance with the facts and circumstances in the particular case and the policy and procedures set forth herein.

### § 75.5 Criteria.

*General.* The criteria set forth herein provide policy and guidance in considering applications for separation or for assignment to noncombatant training and service based on conscientious objection.

(a) Consistent with the national policy to recognize the claims of bona fide conscientious objectors in the military service, an application for classification as a conscientious objector may be approved (subject to the limitations of § 75.4(a)) for any individual:

(1) Who is conscientiously opposed to participation in war in any form;

(2) Whose opposition is founded on religious training and beliefs; and

(3) Whose position is sincere and deeply held.

(b) War in any form: The clause "war in any form" should be interpreted in the following manner:

(1) An individual who desires to choose the war in which he will participate is not a conscientious objector under the law. His objection must be to all wars rather than a specific war;

(2) A belief in a theocratic or spiritual war between the powers of good and evil does not constitute a willingness to participate in "war" within the meaning of this part.

(c) Religious training and belief: (1) In order to find that an applicant's moral and ethical beliefs are against participation in war in any form and are held with the strength of traditional religious convictions, the applicant must show that these moral and ethical convictions, once acquired, have directed his life in the way traditional religious convictions of equal strength, depth and duration have directed the lives of those whose beliefs